

OFFICIAL GAZETTE



GOVERNMENT OF GOA

NOTE: There is one Extraordinary issue to the Official Gazette, Series I No. 35 dated 1-12-94, namely Extraordinary dated 1-12-94 from pages 475 to 476 regarding Notification from Department of Cooperation.

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

Notification

12-1-94/LA

The Cable Television Networks (Regulation) Ordinance, 1994 (Ordinance No. 9 of 1994), which has been promulgated by the President of India and published in the Gazette of India, Extraordinary, Part II, Section I, dated the 29th September, 1994, is hereby published for the general information of the public.

P. V. Kadnekar, Joint Secretary (Law).

Panaji, 3rd November, 1994.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th September, 1994/
Asvina 7, 1916 (Saka)

The Cable Television Networks (Regulation)
Ordinance, 1994

No. 9 of 1994

Promulgated by the President in the Forty-fifth
Year of the Republic of India.

An Ordinance to provide for the regulation of the operation of cable television networks in the country and for matters connected therewith or incidental thereto.

Whereas the Cable Television Networks (Regulation) Bill, 1993 was introduced in the Rajya Sabha and the said Bill is pending in that House;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Cable Television Networks (Regulation) Ordinance, 1994.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) “cable operator” means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network;

(b) “cable service” means the transmission by cables of programmes including re-transmission (by cables of any broadcast television signals);

(c) “cable television network” means any system consisting of a set of closed transmission paths and associated signal generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers;

(d) “company” means a company as defined in section 3 of the Companies Act, 1956;

1 of 1956.

(e) “person” means—

(i) an individual who is a citizen of India;

(ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India;

(iii) a company in which not less than fifty-one per cent of the paid-up share capital is held by the citizen of India;

(f) “prescribed” means prescribed by rules made under this Ordinance;

(g) "programme" means any television broadcast and includes—

(i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players;

(ii) any audio or visual or audio-visual live performance or presentation,

and the expression "programming service" shall be construed accordingly;

(h) "registering authority" means such authority as the Central Government may, by notification in the Official Gazette, specify to perform the functions of the registering authority under this Ordinance;

(i) "subscriber" means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

CHAPTER II

Regulation of Cable Television Network

3. *Cable television network not to be operated except after registration.*— No person shall operate a cable television network unless he is registered as a cable operator under this Ordinance:

Provided that a person operating a cable television network, immediately before the commencement of this Ordinance, may continue to do so for a period of ninety days from such commencement; and if he has made an application for registration as a cable operator under section 4 within the said period, till he is registered under that section or the registering authority refuses to grant registration to him under that section.

4. *Registration as Cable Operator.*— (1) Any person who is operating or is desirous of operating a cable television network may apply for registration as cable operator to the registering authority.

(2) An application under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

(3) On receipt of the application, the registering authority shall satisfy itself that the applicant has furnished all the required information and on being so satisfied, register the applicant as a cable operator and grant to him a certificate of such registration:

Provided that the registering authority may, for reasons to be recorded in writing and communicated to the applicant, refuse to grant registration to him if it is satisfied that he does not fulfil the condition specified in clause (e) of section 2.

5. *Programme code.*— No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code:

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

6. *Advertisement code.*— No person shall transmit or re-transmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code:

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

7. *Maintenance of register.*— Every cable operator shall maintain a register in the prescribed form indicating therein in brief the programmes transmitted or re-transmitted through the cable service during a month and such register shall be maintained by the cable operator for a period of one year after the actual transmission or re-transmission of the said programmes.

8. *Compulsory transmission of two Doordarshan satellite channels.*— (1) Every cable operator using a dish antenna or Television Receiver only shall, from the commencement of this Ordinance, re-transmit at least two Doordarshan satellite channels of his choice through the cable service.

(2) The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.

9. *Use of standard equipment in cable television network.*— No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986, use any equipment in his cable television network unless such equipment conforms to the said Indian Standard. 63 of 1986.

10. *Cable television network not to interfere with any telecommunication system.*— Every cable operator shall ensure that the cable television network being operated by him does not interfere, in any way, with the functioning of the authorised telecommunication systems.

CHAPTER III

Seizure and confiscation of certain Equipment

11. *Power to seize equipment used for operating the cable television network.*— (1) If any officer, not below the rank of a Group 'A' officer of the Central Government authorised in this behalf by the Government (hereinafter referred to as the authorised officer), has reason to believe that the provisions of section 3 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network.

(2) No such equipment shall be retained by the authorised officer for a period exceeding ten days from the date of its seizure unless the approval of the District Judge, within the local limits of whose

jurisdiction such seizure has been made, has been obtained for such retention.

12. *Confiscation.*—The equipment seized under sub-section (1) of section 11 shall be liable to confiscation unless the cable operator from whom the equipment has been seized registers himself as a cable operator under section 4 within a period of thirty days from the date of seizure of the said equipment.

13. *Seizure or confiscation of equipment not to interfere with other punishment.*—No seizure or confiscation of equipment referred to in section 11 or section 12 shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Ordinance.

14. *Giving of opportunity to the cable operator of seized equipment.*—(1) No order adjudicating confiscation of the equipment referred to in section 12 shall be made unless the cable operator has been given a notice in writing, informing him of the grounds on which it is proposed to confiscate such equipment and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice against the confiscation and if he so desires of being heard in the matter:

Provided that where no such notice is given within a period of ten days from the date of the seizure of the equipment, such equipment shall be returned after the expiry of that period to the cable operator from whose possession it was seized.

(2) Save as otherwise provided in sub-section (1), the provisions of the Code of Civil Procedure, 1903 shall, so far as 5 of 1903. may be, apply to every proceeding referred to in sub-section (1).

15. *Appeal.*—(1) Any person aggrieved by any decision of the court adjudicating a confiscation of the equipment may prefer an appeal to the court to which an appeal lies from the decision of such Court.

(2) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary.

(3) No further appeal shall lie against the order of the court made under sub-section (2).

CHAPTER IV

Offences and Penalties

16. *Punishment for contravention of the provisions of this Ordinance.*—Whoever contravenes any of the provisions of this Ordinance shall be punishable,—

(a) for the first offence, with imprisonment for a term which may extend to two years or

with fine which may extend to one thousand rupees or with both;

(b) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees.

17. *Offences by companies.*—(1) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly or other association of individuals; and

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals: and

(b) “director” in relation to a firm, means a partner in the firm.

18. *Cognizance of offences.*—No court shall take cognizance of any offence punishable under this Ordinance except upon a complaint in writing made by such officer, not below the rank of a Group ‘A’ officer of the Central Government, as the State Government may, by notification in the Official Gazette, specify in this behalf.

CHAPTER V

Miscellaneous

19. *Power to prohibit transmission of certain programmes in public interest.*—Where an officer, not below the rank of a Group ‘A’ officer of the Central Government authorised by the State Government in this behalf, thinks it necessary or expedient so to do in the public interest, he may, by order, prohibit any cable operator from transmitting or retransmitting any particular programme if it is likely to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, linguistic or regional

groups or castes or communities or which is prejudicial to the maintenance of harmony between different religions, racial, language or regional groups or castes or communities and which disturbs or is likely to disturb the public tranquility.

20. *Power to prohibit operation of cable television network in public interest.*— Where the Central Government thinks it necessary or expedient so to do in the public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

21. *Application of other laws not barred.*— The provisions of this Ordinance shall be in addition to, and not in derogation of, the Drugs and Cosmetics Act, 1940, the Pharmacy Act, 1948, the Emblems and Names (Prevention of Improper Use) Act, 1950, the Drugs (Control) Act, 1950, the Cinematograph Act, 1952, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, the Prevention of Food Adulteration Act, 1954, the Prize Competitions Act, 1955, the Copyright Act, 1957, the Trade and Merchandise Marks Act, 1958, the Indecent Representation of Women (Prohibition) Act, 1986 and the Consumer Protection Act, 1986.

22. *Power to make rules.*— (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may

provide for all or any of the following matters, namely:—

(a) the form of application and the fee payable under sub-section (2) of section 4;

(b) the programme code under section 5;

(c) the advertisement code under section 6;

(d) the form of register to be maintained by a cable operator under section 7;

(e) any other matter which is required to be, or may be prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions; and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SHANKER DAYAL SHARMA,
President.

A. C. C. UNNI,
Additional Secy. to the Govt. of India.